



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

SR-6J

July 8, 2016

By Electronic and Certified Mail
Return Receipt Requested

Blue Tee Corp.
c/o: Ms. Jennifer Mumper
Manager – Environmental
Gold Fields Mining, LLC
Peabody Energy – Peabody Plaza
701 Market Street
St. Louis, MO 63101-1826

Re: Old American Zinc Plant (OAZ) Superfund Site (Fairmont City, St. Clair County, Illinois) – Final Remedial Design under CERCLA Section 104/106/107/122
Administrative Settlement Agreement and Order on Consent (ASAOC) #V-W-14-C-011
for Remedial Design (RD) – Formal Notice of Respondent Noncompliance

Dear Ms. Mumper:

The U.S. Environmental Protection Agency (EPA) issued the above-referenced CERCLA ASAOC for RD on August 1, 2014. Pursuant to the 2014 ASAOC at Section VIII, Paragraph 35, Respondent Blue Tee Corp. (Blue Tee) “shall perform all action necessary to implement the Statement of Work.” This requirement includes submission of the Final Design Report for RD. Pursuant to the schedule in Appendix C (‘Statement of Work’ – Section VI) of the 2014 ASAOC for RD and the EPA-approved RD Work Plan, the Final Design Report was due June 9, 2016. As of June 9, 2016, Respondent Blue Tee had failed to timely make said submission. Thus, Respondent Blue Tee is in noncompliance with this (and other) requirements of the 2014 ASAOC. As of the date of this letter, the Final Design Report has still not been submitted.

EPA has completed its review of Gold Fields Mining, LLC’s (Gold Fields) June 9, 2016 letter, submitted in reply to EPA’s comments on the Draft Final Design Report dated May 10, 2016 for the OAZ Site. This June 9, 2016 Gold Fields letter was submitted in lieu of Respondent Blue Tee’s submission of the Final Design Report in accordance with the 2014 ASAOC. EPA disapproves the Gold Field’s June 9, 2016 letter as submitted in lieu of the required Final Design Report, and requires Respondent Blue Tee to fulfill its obligation pursuant to the above-referenced 2014 ASAOC for RD. A Final Design Report is past due in accordance with the schedule in Appendix C (‘Statement of Work’ – Section VI) of the 2014 ASAOC for RD and the EPA-approved RD Work Plan and must be submitted immediately. All of the EPA comments of

May 10, 2016 must be addressed in the Final Design Report. If all comments are not adequately addressed, EPA may exercise its right to modify the document and provide the revised document to you for implementation or to direct you to make specified modifications to the document. See, Section IX ('EPA Approval of Plans and Other Submissions'), Paragraphs 46-47. This letter constitutes an official Notice of Noncompliance as specified in Section XVIII 'Stipulated Penalties', Paragraph 85, of the 2014 ASAOC for RD.

Further, EPA determines that Respondent Blue Tee has also failed in performing a number of other required tasks pursuant to the controlling 2014 ASAOC for RD. Respondent has failed: i) to timely submit a May 2016 Progress Report, pursuant to Section X ('Progress Reports'), Paragraph 53.a of the 2014 ASAOC for RD; and, ii) to properly and timely notify EPA of your change of Project Coordinator pursuant to Section VII ('Designation of Project Manager, Project Coordinator, and Contractors'), Paragraph 34.

Please be advised that Respondent Blue Tee's failure to timely submit a Final Design Report constitutes a continuing violation of the 2014 ASAOC for RD at Sections IX, XVIII, and Appendix C ('Statement of Work' or 'SOW' – Sections IVB, and VI) and that stipulated penalties began accruing on the day after a satisfactory version was due to be received by EPA. Consistent with the provisions of the 2014 ASAOC for RD, stipulated penalties will continue to accrue until the date that EPA receives a satisfactory version of the Final Design Report from Respondent.

If Respondent believes that any changes to the Final Design Report are necessary other than those directed by EPA's comments of May 10, 2016, those changes must be discussed with and approved by me, EPA's Project Coordinator, prior to re-submittal of the document. Those discussions may be memorialized in a progress report or other communication to me. In addition, all changes made to the document, other than those made specifically at the direction of EPA, must be specified in writing to EPA upon re-submittal of the document. If all comments are not adequately addressed, EPA may exercise its right to modify the document unilaterally and require implementation of the revised document.

Respondent is hereby requested to submit a response to this letter in writing to this office no later than twenty-one (21) days after receipt of this Notice of Noncompliance and to provide the appropriate information regarding the status of noncompliance, any corrective action taken or will be taken, and whether Respondent Blue Tee agrees with the relevant facts. If you have any questions concerning this matter, or would like to discuss EPA's May 10, 2016 comments in detail, please contact me at 312/353-4150 or your legal counsel may contact Tom Turner, Region 5 EPA Associate Regional Counsel, at 312/886-6613.

Sincerely yours,



Sheila Desai
Remedial Project Manager
Superfund Division

cc: Mr. Gary Uphoff
Environmental Management Services Co.
5934 Nicklaus Drive
Fort Collins, CO 80528

Terrance G. Faye, Esq.
1 North Maple Avenue
Greensburg, PA 15601

Kevin Holewinski, Esq.
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 20001-2113

GSA
c/o: Daniel Pinkston, Esq.
U.S. Department of Justice
ENRD/EDS
999 18th Street
Denver, CO 80202

Tom Turner, Esq.
U.S. EPA, ORC, Region 5

Michael Haggitt
Illinois EPA (*email only*)

Rachel Grand
CH2M (*email only*)

Lawrence Schmitt
U.S. EPA, SFD, Region 5 (*email only*)

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1. Article Addressed to:

Elite Tee Corp.
c/o: Ms. Jennifer Mumper
Manager-Environmental
Gold Fields Mining, LLC
Peabody Energy-Peabody Plaza
701 Market Street
St. Louis, MO 63101-1826

2. Article Number
(Transfer from service label)

7011 1150 0000 2643 9897

PS Form 3811, July 2013

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Jennifer R. Mumper

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